C of C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of.:	§	
Roy COHEN	§	
Serial No.: 09/916,686	§	
Filed: July 30, 2001	§ Group Art Unit: 2182	
Patent No.: 6,957,286	§	
Issued: October 18, 2005	§	
For: SYSTEM AND DEVICE FOR SWITCHING OPERATING SYSTEM	§	
	§ Attorney Docket: 24647	
Examiner: Harold J. Kim	§	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Sir:

Patentee requests that the U.S. Patent and Trademark Office issue a Certificate of Correction for an error noted in issued Patent No. 6,957,286.

This is a request for a certificate of correction under 35 U.S.C. §255 and 37 CFR §1.323 of US Patent number 6,957,286 which was filed as USSN 09/916,686.

The correction is of an applicant's error which is of a typographical or clerical nature and does not raise new issues or require reexamination.

Please charge $100 and any additional fees, if required, to Deposit Account 50-1407.

Statement of Facts

The present correction is to claim 10, which was application claim 8. During prosecution, in an action dated July 7, 2004 (paper #6), the Examiner indicated that

application claim 8, which was dependent on application claim 7 which was dependent on claim 1 was patentable. Applicants, in an amendment filed on November 8, 2004, stated:

Claims 4 and 8-10 were found to be allowable but objected to as being dependent on a non-allowable base claim. Claim 4 has now been incorporated into claim 1, and claim 8 has been rewritten in independent form.

In addition, the claims have been amended to cover memory devices, based on the description at page 2 line 7 which teaches hard drives "or other storage device", and the original features of first and second memory devices being hard disk drivers now appear in the new claims.

In fact, the amendment to claim 8 did not add the subject matter of claim 7 to claim 8. Only the subject matter of claim 1 was added. Thus, claim 8, as amended, was broader than it should have been.

For completeness of the record, application claims 1, 7 and 8 just before the above referenced amendment of November 8, 2004 are copied below, followed by the requested claim correction of claim 10, with the changes indicated.

1. (Original) A system for providing a plurality of operating systems for operating a computational device, the system comprising:

    (a)   a first hard disk drive for storing a first operating system, said first hard disk drive being operated by the computational device;

    (b)   a second disk drive for storing a second operating system, said second hard disk drive being operated by the computational device; and

    (c)   a hard disk drive communication controlling device for controlling a function of each of said first hard disk drive and said second hard disk drive, such that only one of said first hard disk drive and said second hard disk drive is operable at a particular time.

7. (Original) The system of claim 1, further comprising:

    (d)   a network card for communicating with each of a plurality of network lines; and

(e)   a network switcher for determining a connection to one of said plurality of network lines.

8.   (Original)   The system of claim 7, wherein said network switcher permits access to a first type of network line if said first hard disk drive is accessible, and permits access to a second type of network line if said second hard disk drive is acessible.

10.   (As issued, with requested correction marked) A system for providing a plurality of operating systems for operating a computational device, the system comprising:

(a) a first memory device for storing a first operating system, said first memory device being operated by the computational device;

(b) a second memory device for storing a second operating system, said second memory device being operated by the computational device; ~~and~~

(c) a memory device communication controlling device for controlling a function of each of said first memory device and said second memory device, such that only one of said first memory device and said second memory device is operable at a particular time

(d) a network card for communicating with each of a plurality of network lines; and

(e) a network switcher for determining a connection to one of said plurality of network lines,

wherein said network switcher permits access to a first type of network line if said first memory device is accessible, and permits access to a second type of network line if said second memory device is accessible.

Propriety of the correction and relevant case law

The correction requested meets all applicable criteria for correction via a certificate of correction. It is clear from the issued claim 10 itself that there is an error in the claim since as issued, there is no antecedent for "network switcher."

It is clear from the intrinsic record that the claim that was examined and found patentable is the *corrected* patent claim 10 (which is claim 8 is independent form), as set forth below and on the certificate of correction.

It is unambiguously clear from the record that this was the amendment argued in the response of November 8, 2004 and that this was the amendment that was meant to have been made.

It is unambiguously clear from the record how the error should be corrected, namely, that the limitations of application claim 7 should be added to patent claim 10.

Patentee submits that the error is a typographical or clerical error made in good faith and that this request for correction is also made in good faith.

Superior Fireplace v. Majestic Products [60 USPQ2d 1668 @ 1678, 1679] (Fed. Cir. 2001) makes clear that even a broadening correction can be made if it is evident from the intrinsic record (including the file history) that a mistake of a clerical or typographical nature was made and clearly evident from the specification, drawings and prosecution history how the error should appropriately be corrected. This is clearly the case in the present request wherein it is clearly evident that a mistake of a clerical or typographical nature is present, and it is clearly evident from the prosecution history that claim 8 in independent form necessarily includes all of the recitations of its parent claims 1 and 7.

Arthocare Corp. v. Smith & Nephew, Inc, [74 USPQ2d 1749, headnote 4 and @1757) (Fed. Cir, May 10, 2005) quotes Suprtior Fireplace to allowing a broadening correction. Central Admixture Pharm v. Advanced Cardiac, No. 2006-1307 (Fed. Cir. Apr. 3, 2007) make clear that a substantive change in a claim (even a broadening of the claim) can be made in a certificate of correction if it is clear and unambiguous how the correction should made.

It is noted again, that the requested correction of claim 10 does not broaden the claim.

In the present case, the prosecution makes abundently clear how the error occurred and exactly how it should be corrected.

Patentee respectfully submits that the request for a certificate of correction meets all of the requirements of 35 U.S.C. §255 and 37 CFR §1.323 and that a certificate of correction should be issued reflecting the corrections.

Respectfully submitted,

Martin D. Moynihan
Registration No. 40,338

Date: July 13, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO   :   6,957,286

DATED   :   October 18, 2005

INVENTOR(S)   :   Roy COHEN

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Please rewrite claim 10 as follows:

10. A system for providing a plurality of operating systems for operating a computational device, the system comprising:

(a) a first memory device for storing a first operating system, said first memory device being operated by the computational device;

(b) a second memory device for storing a second operating system, said second memory device being operated by the computational device;

(c) a memory device communication controlling device for controlling a function of each of said first memory device and said second memory device, such that only one of said first memory device and said second memory device is operable at a particular time

(d) a network card for communicating with each of a plurality of network lines; and

(e) a network switcher for determining a connection to one of said plurality of network lines,

wherein said network switcher permits access to a first type of network line if said first memory device is accessible, and permits access to a second type of network line if said second memory device is accessible.

MAILING ADDRESS OF SENDER:

Martin D. Moynihan
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

PATENT NO. 6,957,286